

## REMARKS

### Summary

Claims 1, 2, 4-8, and 10-34 are pending in this application. Claim 1 is amended herein to include the limitation of claim 9, which is therefore canceled to avoid redundancy, and to correct an inadvertent wording error by replacing "laminating" with "laminated." Claims 2, 4-8, 12-13 are amended herein to overcome the rejection under 35 U.S.C. § 112. Claims 21-34 are new. No new matter has been added.

### Rejections Under 35 USC § 112

In the Office action dated March 14, 2005, the Examiner rejected claims 2 and 4-9, 12, 14, and 17 under 35 U.S.C. § 112, second paragraph, as being indefinite. In the Advisory Action dated July 25, 2005, the Examiner requested clarification of the invention as set forth in claims. Applicants provide the requested clarification in the remarks below, along with amendments to claims 2, 4-9, 12-13, to overcome the rejection under 35 U.S.C. § 112, second paragraph.

In particular, in regard to claims 2 and 4-8, the Examiner asserted in the Advisory Action that it "is unclear as to whether or not each individual dielectric thin film and each individual fine metallic bodies are made of different materials." In the case of the dielectric thin film, the claims are amended to clarify that the "different material" limitation refers to individual thin films or to regions including a plurality of thin films, as supported by the specification at least in paragraph [0013]. For example, referring to Applicants' Fig. 5, each of the dielectric films represented by 2a, 2b, 2c, 2d, and 2e may be made of a different material. Or, in another example, the dielectric films in a region including films 2a, 2b, and 2c may be formed of a different material than the dielectric films not included in the region, that is, films 2d and 2e. Or, in another example, the dielectric films in a region including films 2a, 2b, and 2e may be formed of a different material than the dielectric films not included in the region, that is, films 2c and 2d. In the case of the fine metallic bodies, the claims are amended to clarify that the "different material" limitation refers to the *plurality* of fine metallic bodies arranged on an individual

thin film or to the *more than one plurality, or pluralities*, of fine metallic bodies arranged within a region of thin films. Using similar exemplary scenarios as above, the plurality of fine metallic bodies may be made of a different material on each of thin films 2a, 2b, 2c, 2d, and 2e, for example. Or, in another example, the pluralities of fine metallic bodies in a region including thin films 2a, 2b, and 2c may be made of a different material than the pluralities of fine metallic bodies not included in the region, that is, those on thin films 2d and 2e. Or, in another example, the pluralities of fine metallic bodies in a region including thin films 2a, 2b, and 2e may be made of a different material than the pluralities of fine metallic bodies not included in the region, that is, those on thin films 2c and 2d. Support for these examples may be found in the specification at least in paragraphs [0041] and [0042]. Applicants further point out that one of ordinary skill in the art would know that a “dielectric thin film” and a “fine metallic body” are, *by definition*, composed of different materials. A dielectric material is a non-conductor; a metallic material is a conductor. The Examiner’s statement in the March 14, 2005 Office action that “the examiner is taking the position that applicant is claiming that the dielectric thin film and the fine metallic bodies are made of different material” is not supported by common sense or by the disclosure in the specification, which is referred to and discussed above.

In regard to claim 12, the Examiner has requested clarification of the alignment of the fine metallic bodies. As amended herein, claim 12 requires that fine metallic bodies arranged in a first layer of the functional multilayer film are aligned with the fine metallic bodies in a second layer in a direction orthogonal to a surface of the first layer. Claim 12 is also amended to correct an inadvertent wording error by properly making reference to a “functional multilayer film.”

In regard to claim 14, the Examiner asserted that it is unclear to what “elliptically shaped fine metallic bodies” refers. In response, claim 13, from which claim 14 depends, is amended to provide proper antecedent basis for the reference to elliptically shaped fine metallic bodies.

With respect to claims 14 and 17, the Examiner requested clarification of the phrases “oriented in a regular pattern” and “the arrangement of the fine metallic bodies...is regular.” Applicants point out that “regular” as used in the claims and the

specification has the ordinary and customary meaning that would be attributed to this term by those of ordinary skill in the art. As stated in section 2111.01 of the *MPEP*:

The ordinary and customary meaning of a term may be evidenced by a variety of sources, *Brookhill-Wilk 1, LLC v. Intuitive Surgical, Inc.*, 334 F.3d 1294, 1298, 67 USPQ2d 1132, 1136 (Fed. Cir. 2003), including: the claims themselves, *Process Control Corp. v. HydReclaim Corp.*, 190 F.3d 1350, 1357, 52 USPQ2d 1029, 1033 (Fed. Cir. 1999); dictionaries and treatises, *Tex. Digital Sys., Inc. v. Telegenix, Inc.*, 308 F.3d 1193, 1202, 64 USPQ2d 1812, 1818 (Fed. Cir. 2002); and the written description, the drawings, and the prosecution history, see, e.g., *DeMarini Sports, Inc. v. Worth, Inc.*, 239 F.3d 1314, 1324, 57 USPQ2d 1889, 1894 (Fed. Cir. 2001). If extrinsic reference sources, such as dictionaries, evidence more than one definition for the term, the intrinsic record must be consulted to identify which of the different possible definitions is most consistent with applicant's use of the terms. *Brookhill-Wilk 1*, 334 F. 3d at 1300, 67 USPQ2d at 1137; see also *Renishaw PLC v. Marposs Societa" per Azioni*, 158 F.3d 1243, 1250, 48 USPQ2d 1117, 1122 (Fed. Cir. 1998)

According to *The American Heritage® Dictionary of the English Language, Fourth Edition*, "regular" means orderly, even, or symmetrical; and occurring at fixed intervals, periodic. These definitions are consistent with the embodiments shown in Applicants' drawings, such as, for example, Figs. 1, 2, and 5, which illustrate fine metallic bodies oriented in an orderly, even or regular pattern.

In light of the preceding remarks and amendments to the claims, Applicants submit that the claims particularly point out and distinctly claim the subject matter regarded as the invention. Therefore, Applicants respectfully request that the Examiner withdraw the rejections of claims 2 and 4-8, 12-14, and 17 under 35 U.S.C. 112, second paragraph.

### **Rejections Under 35 USC § 103**

The Examiner asserted that claims 1-2 and 4-20 are unpatentable under 35 U.S.C. § 103(a) over Pugh, III (U.S. 4,046,454) or Miller (U.S. 3,864,018) in view of Li et al. (U.S. 6,377,732). Claim 1 is amended herein to overcome this rejection.

Amended claim 1 requires that the plurality of fine metallic bodies is made of a different material in at least one of the metal-arranged thin films. None of the prior art references cited by the Examiner discloses or suggests a functional multilayer film satisfying this limitation. Since the cited references, either alone or in combination, do not teach or suggest each and every element of amended claim 1, Applicants

respectfully request that the rejection of the claims under 35 U.S.C. § 103(a) be withdrawn.

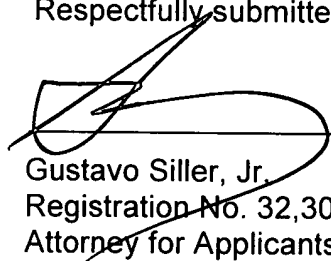
### **New Claims**

New claim 21 includes the limitations of amended claim 1 and claims 10 and 11. New claim 22 recites a functional multilayer film comprising a matrix of laminated metal-arranged thin films which include fine metallic bodies, wherein each of the fine metallic bodies is formed in an elliptical shape as elliptically-shaped fine metallic bodies. None of the references cited by the Examiner discloses a matrix of laminated metal-arranged thin films that satisfies the limitations of this claim. New claim 34 includes the limitations of claim 22 and also claims 30 and 31. Applicants therefore submit that new claims 21, 22 and 34, and claims dependent therefrom, are patentable.

### **Summary**

Applicants respectfully submit that the pending claims are in condition for allowance, in view of the remarks above and the amendments to the claims. The Examiner is respectfully requested to contact the undersigned in the event that a telephone interview would expedite consideration of the application.

Respectfully submitted,



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